IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 151 OF 2004
WITH
CRIMINAL APPEAL NO.150 OF 2004

The State of Maharashtra ...Appellant.

V/s

1. Siraj Kadar Shaha,
aged 32.

2. Nayeem Mahamad Shah,
aged 20,

Both R/o Kudal, Shivajinagar,
Tal: Kudal,
Dist: Sindhudurg. ...Respondents.

Mr. A.M. Shringarpure, APP for the appellant - State.

Mr. A.R. Shaikh for respondent Nos. 1 and 2.

CORAM: V.M.KANADE,J.

DATE: 9th December, 2004

P.C.

1. Heard the learned APP appearing on behalf of the appellant - State and the learned Counsel appearing on behalf of the respondents.

2. State has filed this appeal challenging the Judgment and Order of the Additional Sessions Judge, Sindhudurg in Criminal Appeal No. 3 of 1999. By the said Judgment and Order, the Lower Appellate Court acquitted the respondents - accused of the offence punishable under section 353, 332 read with section 34

of the Indian Penal Code and convicted them under section 323 read with section 34 of the Indian Penal Code and sentenced the accused to pay fine of Rs 250 each and, in default, to suffer R.I. for 15 days.

3. Prosecution's case in brief is that the respondents - accused assaulted Police Constable Gurudas Padave who was deputed at S.T. Stand Kudal. The Judicial Magistrate, First Class, Kudal convicted the accused under sections 353, 332 read with section 34 of the Indian Penal Code and sentenced them to suffer S.I. for three months. Against the said Judgment and Order, accused preferred an appeal before the Additional Sessions Judge, Sindhudurg who was pleased to acquit the accused of the offence under sections 353, 332 read with section 34 of the IPC.

4. Against the said order of acquittal, the State has preferred an appeal being Criminal Appeal No.150 of 2004. This appeal was dismissed by this Court by order dated 9/7/2004. This Court, while dismissing the appeal, has observed that the Police Constable, admittedly, was not in uniform and the accused were not supposed to know that he is a Police Constable or a Police Officer.

5. This appeal has been preferred seeking enhancement of the sentence.

6. I have perused the judgment and order of the Additional Sessions Judge. In paragraph 16 of the said judgment, the Lower Appellate Court has given cogent reasons for awarding the sentence and replacing the sentence of imprisonment with the sentence of fine. This court also has dismissed the appeal against the acquittal. I do not see any reason to interfere with the said order passed by the Additional Sessions Judge. Appeal is accordingly dismissed.

V.M. KANADE, J.